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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CRMLA LICENSE No.: 413-0495
)	
THE COMMISSIONER OF BUSINESS)	CFLA LICENSE Nos.: 603-G129; 603-G385;
OVERSIGHT,)	603-G386; 603-G387; 603-H918; 603-H970;
)	603-H987; 603-I119; and 60DBO-33006
Complainant,)	
)	
v.)	ACCUSATION/STATEMENT OF ISSUES
)	
STEARNS LENDING, INC. now known as)	
STEARNS LENDING, LLC,)	
)	
Respondent.)	

The Complainant is informed and believes, and based upon such information and belief, alleges and charges Respondent as follows:

I

Introduction

1. Stearns Lending, Inc. ("Stearns") is a residential mortgage lender and loan servicer licensed by the Commissioner of Business Oversight ("Commissioner" or "Complainant") pursuant to the California Residential Mortgage Lending Act ("CRMLA") (Financial Code §50000 et seq.). Stearns has its principal place of business located at 4 Hutton Centre Drive, 10th Floor, Santa Ana, California 92707. Stearns currently has 83 branch office locations under its CRMLA license located

ACCUSATION/STATEMENT OF ISSUES

1 in California, and other states. Stearns employs mortgage loan originators in its CRMLA business.
2 Stearns has been approved to do business under its CRMLA licenses under the names CU Partners,
3 First Security Home Loans, Stearns Financial Institutions Group and Stearns Home Loans.

4 2. Stearns is also licensed by the Commissioner as a finance lender and broker pursuant
5 to the California Finance Lenders Law ("CFL") (Financial Code § 22000 et seq.). Stearns has its
6 principal place of business under the CFL also located at 4 Hutton Centre Drive, 10th Floor, Santa
7 Ana, California 92707. Stearns currently has 7 branch office locations under its CFL license
8 located in California, and other states. Stearns also has an application pending for a branch to be
9 located in Las Vegas, Nevada. Stearns has been approved to do business under its CFL licenses
10 under the name Stearns Home Loans.

11 3. On or about June 30, 2014, Stearns converted from a corporation to a limited liability
12 company and changed its name from Stearns Lending, Inc. to Stearns Lending, LLC. Pursuant to
13 Financial Code sections 50124, subdivision (a)(6) and 22108 and California Code of Regulations
14 title 10, section 1422, all CRMLA and CFL licensees are required to file application amendments
15 with the Commissioner and obtain approval prior to any material change in the information
16 contained in the initial license application. The Commissioner has yet to approve the conversion or
17 name change as Stearns has failed to submit all the necessary documentation.

18 II

19 CRMLA Violations

20 4. On or about December 9, 2013, the Commissioner commenced a regulatory
21 examination of the books and records of Stearns under the CRMLA ("2013 regulatory
22 examination"). The 2013 regulatory examination disclosed that Stearns had debit balances
23 (shortages) in its two trust accounts totaling \$56,755.73 as of October 31, 2013 in violation of
24 California Code of Regulations, title 10, section 1950.314.6. Section 1950.314.6 prohibits debit
25 balances in any loan or servicing account maintained by CRMLA licensees. The City National Bank
26 trust account ending in 4879 (impound account) as of October 31, 2013 had a shortage in the amount
27 of \$37,078.76 and the City National Bank trust account ending in 4917 (repair fees account) as of
28

1 October 31, 2013 had a shortage in the amount of \$19,676.97. Stearns corrected the shortages on or
2 about December 20, 2013.

3 5. During the course of 2013 regulatory examination, Stearns was instructed to provide
4 the latest bank reconciliation, related bank statements, and detailed trust account liability for all its
5 trust accounts. On or about July 6, 2015, Stearns submitted the requested documentation on its two
6 trust accounts for the period ended May 31, 2015. Pursuant to such documentation, Stearns
7 continued to have a shortage in the impound trust account in the amount of \$2,278.49 in violation of
8 California Code of Regulations, title 10, section 1950.314.6.

9 6. The 2013 regulatory examination further disclosed that Stearns had failed to provide a
10 brokerage agreement to the borrower(s) in two of the 15 funded loans reviewed for this issue in
11 violation of Financial Code section 50701.

12 7. The 2013 regulatory examination additionally disclosed that Stearns had failed to
13 provide the Fair Lending Notice to borrower(s) in 14 of the 57 funded loans reviewed for this issue
14 in violation of Financial Code section 50204, subdivision (i), Health and Safety Code section 35830
15 and California Code of Regulations, title 21, section 7114.

16 8. The Commissioner had found that Stearns had failed to provide the Fair Lending
17 Notice to borrower(s) in seven of the 47 funded loans reviewed for this issue during the last
18 regulatory examination under the CRMLA that commenced in July 7, 2011. Based upon the
19 findings of the 2011 regulatory examination, the Commissioner instructed Stearns to implement such
20 procedures as necessary to ensure that all borrowers receive the Fair Lending Notice.

21 III

22 **Finance Lender/Broker Licenses**

23 9. The violations of the CRMLA described above, if committed by Stearns on or before
24 having originally sought a license from the Commissioner under the CFLL, would have constituted
25 grounds for the Commissioner to deny the license application of Stearns under Financial Code
26 section 22109. Pursuant to Financial Code section 22714, the Commissioner may suspend any
27 license if “a fact or condition exists that, if it had existed at the time of the original application for
28 the license, reasonably would have warranted the commissioner in refusing to issue the license

originally.” Pursuant to Financial Code section 22109, the Commissioner may refuse to issue a license if the “applicant . . . has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California . . .” Thus, a fact or condition now exists that, if it had existed at the time of the original application of Stearns for a license under the CFLL, reasonably would have warranted the Commissioner in refusing to issue the license.

IV

CRMLA Suspension/Penalty Statutes

10. Financial Code section 50327 provides in pertinent part:

(a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license, if the commissioner finds that:

(1) the licensee has violated any provision of this division or rule or order of the commissioner thereunder; or (2) any fact or condition exists that, if it had existed at the time of the original application for license, reasonably would have warranted the commissioner in refusing to issue the license originally.

11. Financial Code section 50513 provides in pertinent part:

(a) The commissioner may do one or more of the following:

(4) Impose fines on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).

(b) The commissioner may impose a civil penalty on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator has violated or failed to comply with any requirement of this division or any regulation prescribed by the commissioner under this division or order issued under authority of this division.

(c) The maximum amount of penalty for each act or omission described in subdivision (b) shall be twenty-five thousand dollars (\$25,000).

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

V**Conclusion**

12. The Commissioner finds that, by reason of the foregoing, Stearns has violated Financial Code sections 50204, subdivision (i) and 50701, and Health and Safety Code section 35830 and California Code of Regulations, title 10, section 1950.314.6 and title 21, section 7114 of the CRMLA, and a fact or condition now exists, that if it had existed at the time of original licensure under the CFLL, reasonably would have warranted the Commissioner in refusing to issue the CFLL license, and based thereon, grounds exist to (i) suspend the residential mortgage lender and loan servicer licenses and the finance lender and broker licenses of Stearns, and (ii) assess penalties against Stearns pursuant to Financial Code section 50513, subdivision (b).

VI**Prayer**

WHEREFORE, IT IS PRAYED that:

1. Pursuant to Financial Code section 50327, the residential mortgage lender and loan servicer licenses of Stearns be suspended for a period of up to 12 months;

2. Pursuant to Financial Code section 22714, the finance lender and broker licenses of Stearns be suspended for a period of up to 12 months;

3. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against Stearns for causing a trust account shortage in both its trust accounts in violation of California Code of Regulations, title 10, section 1950.314.6, according to proof, but in an amount of at least \$25,000.00;

4. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against Stearns for at least two violations of Financial Code section 50701, failing to provide brokerage agreements, according to proof, but in an amount of at least \$1,000.00 per violation;

5. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against Stearns for at least seven violations of Financial Code section 50204, subdivision (i) and Health and Safety Code section 35830 and California Code of Regulations, title 21, section 7114, failing to provide brokerage agreements, according to proof, but in an amount of at least \$1,000.00

1 per violation; and

2 6. Deny the pending CFLL application to open a branch location in Las Vegas, Nevada.

3 Dated: January 4, 2016
4 Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

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6 By _____
7 Judy L. Hartley
8 Senior Counsel
9 Enforcement Division
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